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10/676,182	09/30/2003	Steven Verhaverbeke	AMAT/8284/CMP/W-C/RKK	6792

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EXAMINER	
CHAUDHRY, SAEED T	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN VERHAVERBEKE

Appeal 2008-3761
Application 10/676,182
Technology Center 1700

Decided: December 31, 2008

Before EDWARD C. KIMLIN, LINDA M. GAUDETTE, and KAREN M. HASTINGS *Administrative Patent Judges*.

GAUDETTE, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellant requests reconsideration of our Decision of November 28, 2008 ("Decision") wherein we sustained the Examiner's rejections of the appealed claims under 35 U.S.C. § 103(a). Appellant contends that

> [t]he Board err[ed] in affirming all rejections made by the Examiner on grounds that it would have been obvious to one of ordinary skill in the art at the time of the invention to have manipulated the conditions (e.g., concentration and rates of addition) used for mixing the sulfuric acid, hydrogen peroxide and hydrogen fluoride solutions in each of the primary references such that the temperature rise of the resulting

> solution was 3° C or less than the temperatures of the original components (Decision at p. 5).

(Request for Rehearing "Request" 2.)

We have reviewed our Decision in light of the arguments presented by Appellant in the Request. However, we are not persuaded that our Decision was in error.

Page 8 of the Decision states (emphasis added):

> The Examiner's obviousness determination *is not based on a finding that the references explicitly disclose the claimed sulfuric acid concentration* or a temperature increase of about 3°C or less upon mixing. *Rather, the Examiner's position is that it would have been within the level of skill of the ordinary artisan to have adjusted various mixing parameters* in preparing the prior art cleaning solutions so as to minimize the effect of the resultant exothermic disassociation on temperature of the solution. . . .
>
> We view the Examiner's position as reasonable.

Appellant only specifically argues that the Board erred in sustaining the Examiner's rejections because the primary references fail to explicitly disclose or suggest the use of a less concentrated, or dilute sulfuric acid solution. (Request 2.) These were not findings on which the Board relied in its Decision. Accordingly, Appellant's argument is not persuasive because it fails to identify "with particularity the points believed to have been misapprehended or overlooked by the Board in its Decision." 37 C.F.R. § 41.52(a)(1).

In conclusion, based on the foregoing, we have granted Appellant's request to the extent that we have reconsidered our decision, but we deny Appellant's request to make any change therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

DENIED

tc

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